

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JAMETRIUS MCCON,	PLAINTIFF
VERSUS	CASE 1:17cv77-LG-RHW
ADOLFO PEREZ; D&D EXPRESS TRANSPORT	DEFENDANTS AND
D&D EXPRESS TRANSPORT CORP	THIRD PARTY PLAINTIFF
VERSUS	
DARYL D. WILLIAMS	THIRD PARTY DEFENDANT

**PLAINTIFF JAMETRIUS MCCON'S RESPONSE TO DEFENDANTS' MOTION
FOR PARTIAL SUMMARY JUDGMENT**

The Plaintiff Jametrius McCon responds to Defendants' Motion and requests a denial of said motion based on the following:

1. Defendants have moved for partial summary judgment against Plaintiff Jametrius McCon. [Doc. 240].
2. Plaintiff requests that this Court deny Defendants' Motion based on the following:
 - a. Defendant Perez's conduct rises to the level of gross negligence and wantonness;
 - b. D&D Express's conduct also rises to the level of gross negligence and wanton conduct by their failure to conduct any training whatsoever, in violation of the Federal Motor Carrier Safety Regulations;

- c. D&D Express lost or destroyed crucial evidence in this case, both the driver logbooks and the ECM (“black box”) data, entitling Plaintiff to a jury instruction regarding said evidence;
 - d. Contrary to Defendants’ repeated assertion, Plaintiff did ask for lost wages, (past and future), in his Complaint and further disclosed those damages multiple times in discovery and disclosures;
 - e. Defendants have known that Plaintiff McCon’s injuries were likely permanent when they received the Complaint and when they received the medical records of Dr. Wiggins and Plaintiff’s corresponding disclosures.
3. In support of this motion, Plaintiff submits a memorandum and the following exhibits:
- A. Deposition of Defendant Adolfo Perez**
 - B. Deposition of D&D Express (Isumi Duran)**
 - C. Deposition of D&D Express Employee Carlos Laguna**
 - D. Deposition of D&D Express independent adjuster and investigator
David Wilton**
 - E. Deposition of Trooper Joshua LaCap**
 - F. Deposition of Plaintiff Jametrius McCon**
 - G. Deposition of Plaintiff Darryl Williams**
 - H. Deposition of Plaintiff Lamario Henderson**
 - I. Deposition of Plaintiff Larry Henderson**
 - J. Photographs from the scene of the wreck**

- K. Report of Defendants' Expert Shannon Burgess**
- L. Report of Plaintiff's Expert Gary Johnson**
- M. D&D's First Supplemental Responses to the Requests for Production
Propounded by Plaintiff McCon dated September 29, 2017**
- N. Attorney Ed Rowan's Letter requesting preservation of evidence**
- O. David Wilton Email regarding preservation of evidence**
- P. Report of Expert Paul Dillard**
- Q. Plaintiff Jametrius McCon Demand Letter dated January 17, 2017**
- R. Plaintiff Jametrius McCon's Intial Disclosures dated June 26, 2017**
- S. Plaintiff Jametrius McCon's Responses to First Interrogatories
Propounded by D&D Express dated August 14, 2017**
- T. Plaintiff Jametrius McCon's Response to First Request for
Production Propounded by D&D Express dated August 10, 2017**
- U. Plaintiff Jametrius McCon's Supplemental Initial Disclosures dated**
- V. Platt Letter re Discovery of Lost Wages dated September 1, 2017**
- W. Platt Email re production of lost wage documentation dated October
17, 2017**
- X. Medical Records of McCon's physician: Dr. Christopher Wiggins**
- Y. Depo Transcript of Gary Johnson**

Respectfully submitted, this 12th day of April, 2018.

Taylor Martino, P.C.
Attorney for the Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notifications of such filing to the attorneys who have appeared in this case.

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